IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO.1093 OF 2003
IN
NOTICE OF MOTION NO.1361 OF 2001
IN
SUMMARY SUIT NO.1153 OF 1998

Mona Sharma ..Appellant

Vs.

Indian Express Newspapers
(Bombay) Limited ..Respondents.

Mr.G.T.Kukreja i/b.M/s.Kukreja & Co., Advocate for the Appellant.

Mr.D.Purandare i/b.Ms.Poorvi Kumari, Advocate for the Respondents.

CORAM: A.P.SHAH AND
S.J.VAZIFDAR, JJ.

DATED: 17TH JANUARY, 2005

P.C. :

By consent the Appeal is taken up for final hearing. The Appellant has challenged the order of the learned Single Judge allowing her Notice of Motion for setting aside an ex-parte decree dated 1.12.1999 only conditional upon her depositing the claim in suit of Rs.1,98,000/- within one month from the date of the order.

2. There is no reason to interfere with the impugned order. The Appellant/Defendant did not apply for leave to defend the suit and as a result

thereof, the suit was decreed ex-parte as there was no affidavit in reply to the Summons for Judgment.

The Appellant's case is that her Advocate did not advice her to apply for leave to defend and merely had the Defendant prepare a written statement. The written statement was declared by the Defendant.

3. The suit is filed to recover the amounts due under bills/invoices raised by the Respondents/Plaintiffs on the Appellant in respect of the advertisements published by them. There was no reply to the Respondent's Advocate's notice demanding payment thereof. Till this stage there was not a whisper on the merits of the claim from the Appellant. We find that the learned Judge has in fact taken a lenient view of the matter in the Appellants favour by accepting this explanation as sufficient to set aside the decree.

4. In the circumstances, the Appeal is dismissed It will however be open to the learned Judge hearing the Summons for Judgment to pass such orders as he may deem fit, including an order for refund of the amount of Rs.1,98,000/- if deposited by the

Appellant. The time to deposit is extended by eight weeks from today.